

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA :
:
v. : **Case No. 5:02CR30020**
:
KHARY JAMAL ANCRUM :

**UNITED STATES' MOTION TO FILE OUT OF TIME AND FOR
EXTENSION OF TIME TO RESPOND TO § 2255 PETITION**

The United States respectfully moves to file a response in this case out of time and for an extension of time of ten days from this date in which to respond to Khary Jamal Ancrum's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. The § 2255 petition raises a claim of ineffective assistance of counsel on a motion to reduce his sentence filed under 18 U.S.C. § 3582(c)(1) and the First Step Act of 2018. Ancrum's motion was granted and his sentence was reduced, but he asserts that counsel's performance he could have obtained an additional reduction. Whether such a petition is authorized is a matter of impression for this Court and involves a number of complicated legal issues.

The United States had previously asked for a 21-day extension which was granted. Due to an error of uncertain origin, the due date was not recorded on the calendar of the undersigned, and somehow counsel omitted the 2255 from the latest version of her written task list. As was previously explained, the volume of post-conviction litigation has continued to increase dramatically. Much of the current litigation generally has due dates set within two to three weeks of the order to respond, which has created unique challenges in managing workload—including even just keeping up with what is due when. Counsel had been working on this response, had set

it aside to complete two lengthy Court of Appeals briefs arising from trials. She was further distracted by a series of First Step Act motion responses raising novel issues that required revisions to standard arguments and new briefing. Additional time is now required to complete the response, and given the novel nature of the issues posed in this case, it is also necessary to ensure that the United States's response is fully considered and reviewed.

For these reasons, the United States requests permission to file out of time and for a 10-day extension of time to file its Response.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on Friday, July 31, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF which will send a copy of said filing to counsel for the defendant, and caused a copy to be sent via first-class mail to:

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/s/ Jennifer R. Bockhorst
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